

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 29

Introduced By: Friend, 10;

Read first time: January 4, 2007

Committee: Judiciary

A BILL

1 FOR AN ACT relating to juveniles; to amend section 43-290,
2 Reissue Revised Statutes of Nebraska, and section
3 43-3342.05, Revised Statutes Cumulative Supplement, 2006; to
4 provide for court orders to direct financially able parents
5 to pay for costs of care for wards of the state; to provide
6 powers and duties; to harmonize provisions; and to repeal
7 the original sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-290 Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-290. It is the purpose of this section to promote
4 parental responsibility and to provide for the most equitable use and
5 availability of public money.

6 The Supreme Court shall provide by court rule, as a
7 rebuttable presumption, support order guidelines for the determination
8 of support ordered for a juvenile under this section. The Supreme
9 Court may establish and update the guidelines based upon the
10 recommendations of the Child Support Advisory Commission developed
11 pursuant to section 43-3342.05.

12 Pursuant to the petition filed by the county attorney in
13 accordance with section 43-274, whenever the care or custody of a
14 juvenile is given by the court to someone other than his or her
15 parent, which shall include placement with a state agency, or when a
16 juvenile is given medical, psychological, or psychiatric study or
17 treatment under order of the court, the court shall make a
18 determination of support to be paid by ~~a~~ the parent or parents
19 for the juvenile at the same proceeding at which placement, study, or
20 treatment is determined or at a separate proceeding. Such proceeding,
21 which may occur prior to, at the same time as, or subsequent to
22 adjudication, shall be in the nature of a disposition hearing.

23 At such proceeding, after summons to the parent or parents
24 of the time and place of hearing served as provided in sections
25 43-262 to 43-267, the court ~~may~~ shall order and decree that the
26 parent or parents shall pay, in such manner as the court ~~may~~
27 ~~direct,~~ directs pursuant to this section, a reasonable sum that

1 will cover in whole or part the support, medical support, study,
2 and treatment of the juvenile, which amount ordered paid shall be the
3 extent of the liability of the parent or parents. The court in
4 making such order shall give due regard to the cost of the support,
5 study, and treatment of the juvenile, the ability of the parent to
6 pay, and the availability of money for the support of the juvenile
7 from previous judicial decrees, social security benefits, veterans
8 benefits, or other sources. Support ~~thus received~~ ordered by the
9 court shall be paid to the State Disbursement Unit. The Department of
10 Health and Human Services shall determine the proper distribution of
11 such support payments. The State Disbursement Unit shall disburse all
12 payments received as directed by the court and as provided in
13 sections 42-358.02 and 43-512.07. Records shall be kept of all funds
14 received and disbursed by the unit and shall be open to inspection by
15 the parties and their attorneys. ~~transmitted to the person, agency,~~
16 ~~or institution having financial responsibility for such support,~~
17 ~~study, or treatment and, if a state agency or institution, remitted~~
18 ~~by such state agency or institution quarterly to the Director of~~
19 ~~Administrative Services for credit to the proper fund.~~

20 Whenever medical, psychological, or psychiatric study or
21 treatment is ordered by the court, whether or not the juvenile is
22 placed with someone other than his or her parent, or if such study or
23 treatment is otherwise provided as determined necessary by the
24 custodian of the juvenile, the court shall inquire as to the
25 availability of ~~insured or uninsured~~ health care coverage ~~or~~
26 ~~service plans~~ which ~~include~~ includes the juvenile. The court may
27 order the parent to pay over any plan benefit sums received on

1 coverage for the juvenile. The payment of any deductible under the
2 health care benefit plan covering the juvenile shall be the
3 responsibility of the parent or parents. If the parent or parents
4 willfully fails or refuses to pay the sum ordered or to pay over any
5 health care plan benefit sums received, the court may proceed against
6 him or her as for contempt, either on the court's own motion or on the
7 motion of the county attorney or authorized attorney as provided in
8 section 43-512, or execution shall issue at the request of any person,
9 agency, or institution treating or maintaining such juvenile. The
10 court may afterwards, because of a change in the circumstances of the
11 parties, revise or alter the order of payment for support, study, or
12 treatment.

13 If the juvenile has been committed to the care and custody
14 of the Department of Health and Human Services, the department shall
15 pay the costs for the support, study, or treatment of the juvenile
16 which are not otherwise paid by the juvenile's parent.

17 If no provision is otherwise made by law for the support or
18 payment for the study or treatment of the juvenile, compensation for
19 the support, study, or treatment shall be paid, when approved by an
20 order of the court, out of a fund which shall be appropriated by the
21 county in which the petition is filed.

22 The juvenile court shall retain jurisdiction over a parent
23 ordered to pay support. The Department of Health and Human Services
24 shall enforce ~~for the purpose of enforcing~~ such support order,
25 ~~for so long as such support remains unpaid but not to exceed ten~~
26 ~~years from the nineteenth birthday of the youngest child for whom~~
27 ~~support was ordered.~~

1 Sec. 2. Section 43-3342.05 Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 43-3342.05. (1) The Child Support Advisory Commission is
4 created. Commission members shall include:

5 (a) Two district court judges whose jurisdiction includes
6 domestic relations, to be appointed by the Supreme Court;

7 (b) One member of the Nebraska State Bar Association who
8 practices primarily in the area of domestic relations;

9 (c) One county attorney who works in child support;

10 (d) One professional who works in the field of economics or
11 mathematics or another field of expertise relevant to child support;

12 (e) One custodial parent who has a court order to receive
13 child support;

14 (f) One noncustodial parent who is under a support order to
15 pay child support;

16 (g) The chairperson of the Judiciary Committee of the
17 Legislature, who shall serve as the chairperson of the commission;

18 (h) The chairperson of the Health and Human Services
19 Committee of the Legislature;

20 (i) The State Treasurer or his or her designee;

21 (j) The State Court Administrator or his or her designee;

22 and

23 (k) The director of the Title IV-D Division or his or her
24 designee.

25 (2)(a) The Supreme Court shall notify the Executive Board of
26 the Legislative Council of its intent to review the child support
27 guidelines pursuant to section 42-364.16. Following such notification,

1 the chairperson of the commission shall call a meeting of the
2 commission.

3 (b) Each time the commission meets pursuant to subdivision
4 (2)(a) of this section, the Supreme Court shall make appointments to
5 fill the membership under subdivision (1)(a) of this section and the
6 chairperson of the Executive Board shall make appointments to fill
7 each membership under subdivisions (1)(b) through (f) of this section.
8 The terms of these members shall expire after the commission has
9 fulfilled its duties pursuant to subsection (3) of this section.

10 (c) Members shall serve without compensation but shall be
11 reimbursed for their actual and necessary expenses incurred in the
12 performance of their duties as provided in sections 81-1174 to
13 81-1177.

14 (d) If determined to be necessary to perform the duties of
15 the commission, the commission may hire, contract, or otherwise obtain
16 the services of consultants, researchers, aides, and other necessary
17 support staff with prior approval of the chairperson of the Executive
18 Board.

19 (e) For administrative purposes, the commission shall be
20 managed and administered by the Legislative Council.

21 (3) The duties of the commission shall include, but are not
22 limited to:

23 (a) Reviewing the child support guidelines adopted by the
24 Supreme Court and recommending, if appropriate, any changes to the
25 guidelines. Whenever practicable, the commission shall base its
26 recommendations on economic data and statistics collected in the State
27 of Nebraska. In reviewing the guidelines and formulating

1 recommendations, the commission may conduct public hearings around the
2 state; and

3 (b) Presenting reports, as deemed necessary, of its
4 activities and recommendations to the Supreme Court and the Executive
5 Board; and -

6 (c) Recommending, in consultation with the Department of
7 Health and Human Services, juvenile support order guidelines for
8 support orders entered under section 43-290. Such guidelines shall
9 take into consideration the state's cost of provision of care for the
10 juvenile and other relevant matters. The commission shall review the
11 guidelines and report any suggested changes to the Supreme Court.

12 (4) The Supreme Court shall review the commission's reports.
13 The Supreme Court may amend the child support guidelines established
14 pursuant to section 42-364.16 and the juvenile support order
15 guidelines established pursuant to section 43-290 based upon the
16 commission's recommendations.

17 Sec. 3. Original section 43-290, Reissue Revised Statutes of
18 Nebraska, and section 43-3342.05, Revised Statutes Cumulative
19 Supplement, 2006, are repealed.